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Company, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EPIC GAMES, INC.,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No.: 4:20-CV-05640-YGR

**DECLARATION OF JENNA HARDY
FOR GEARBOX SOFTWARE IN
SUPPORT OF PARTIES'
ADMINISTRATIVE MOTIONS TO
SEAL PORTIONS OF DX-4800 AND
HITT DIRECT DEMONSTRATIVES
(DKT. NOS. 659, 660)**

Date:
Time:
Courtroom 1 – 4th Floor
Judge: Hon. Yvonne Gonzalez Rogers

AND RELATED COUNTERCLAIM

DECLARATION OF JENNA HARDY IN
SUPPORT OF ADMINISTRATIVE
MOTION TO SEAL

FW/12031358.5

Case No.: 4:20-CV-05640-YGR

JH

1 I, Jenna Hardy declare pursuant to 28 U.S.C. § 1746 as follows:

2 1. I am the Chief Financial Officer of The Gearbox Entertainment Company, Inc.,
3 which is the corporate parent of Gearbox Software, LLC, Gearbox Publishing, LLC, and Meezey,
4 LLC (collectively "Gearbox Software"). I make this declaration on my own personal knowledge
5 in support of Epic Games, Inc.'s ("Epic") and Apple Inc.'s ("Apple," and together with Epic, the
6 "Parties") Administrative Motions to Seal Trial Exhibits and Live Trial Testimony (Dkt. Nos. 659
7 and 660). If called as a witness, I could and would competently testify to matters stated herein.

8 2. From my role as Chief Financial Officer of The Gearbox Entertainment Company,
9 Inc., I am personally familiar with Gearbox Software's business and financial records and
10 Gearbox Software's recordkeeping, including the sensitive and confidential nature of certain
11 Gearbox Software information. From my employment with Gearbox Software since 2016, I am
12 also familiar with Gearbox's business operations and strategies. Gearbox Software keeps
13 financial and business information confidential to protect itself from competitive harm.

14 3. I understand that Apple has identified documents designated as DX-4800 (Dkt.
15 No. 660-12; Dkt. No. 662-18) and slide 12 of the package of demonstrative exhibits used by
16 Apple with Professor Lorin Hitt on May 12, 2021 (Dkt. No. 660-14 at 12) as trial exhibits in this
17 case. I also understand that the Parties have filed motions to seal limited confidential information
18 regarding commission rates paid to third parties in said documents (Dkt. Nos. 659, 660).

19 4. DX-4800 and the Hitt Direct Demonstratives reflect highly confidential and
20 competitively sensitive information about commissions paid to Gearbox Software and/or its
21 subsidiaries by Epic. Gearbox Software does not release the terms of its commercial agreements.
22 Disclosure of the information contained in the aforementioned documents would cause significant
23 injury to Gearbox Software and put it at a disadvantage against competitors, who would be armed
24 with non-public knowledge of the structure and amount of commissions paid to Gearbox
25 Software. Gearbox Software supports the Parties' requests in Dkt Nos. 659 and 660 to seal or
26 redact the information relating to Gearbox Software in DX-4800 and the related slide 12 of the
27 Hitt Direct Demonstratives to protect Gearbox Software from these harms.

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DECLARATION OF JENNA HARDY IN
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MOTION TO SEAL

FW/12031358.5

1 5. In addition, I understand that the Parties have previously filed documents
2 reflecting additional Gearbox Software confidential information under seal. Gearbox Software
3 requests that any and all documents containing confidential Gearbox Software information
4 previously filed under seal remain under seal.

5
6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8 Executed on May 15, 2021



Approved By:

A handwritten signature in blue ink that reads "Jenna Hardy".

Jenna Hardy
Chief Financial Officer

By:

Jenna Hardy
Chief Financial Officer
The Gearbox Entertainment Company, Inc.

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28 DECLARATION OF JENNA HARDY IN
SUPPORT OF ADMINISTRATIVE
MOTION TO SEAL

FW/12031358.5